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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DAMON DUPREE MILLER,

Plaintiff,

vs.

99 CENTS ONLY STORES, LLC; DOE
EMPLOYEES I through XXX, inclusive; and
DOE MAINTENANCE/CUSTODIAL
COMPANIES I through XXX, inclusive,

Defendants.

CASE NO. 2:21-cv-00316-JCM-VCF

**STIPULATION AND ORDER TO
CONTINUE DISCOVERY DEADLINES
(SECOND REQUEST)**

Pursuant to Federal Rule of Civil Procedure 29(b) and Local Rules 6-1, 7-1 and 26-4, the parties hereby submit the following Stipulation and Order to Continue Discovery Deadlines to extend the discovery deadlines and all related case management deadlines, as set forth in the order granting the parties' discovery plan by 60 days.

I. DISCOVERY COMPLETED TO DATE

1. Defendants propounded written discovery to Plaintiff, and Plaintiff has served responses thereto;
2. Plaintiff has undergone a Rule 35 Examination;
3. Defendant has taken the deposition of Plaintiff;
4. Plaintiff has taken the deposition of non-party witness Malik Branch;
5. Plaintiff has taken the non-appearance deposition of non-party witness Erik Arcila;

6. Plaintiff has produced his Early Case Conference Disclosures pursuant to FRCP 16.1, including eight subsequent supplements thereto;

7. Defendants have produced their Early Case Conference Disclosures pursuant to FRCP 16.1, including six subsequent supplements thereto;

8. Plaintiff has noticed the deposition of 99 Cent Store employee Angela Lombardo.

II. DISCOVERY THAT REMAINS TO BE COMPLETED

The parties agree that additional discovery is necessary to prepare for trial, including, but not limited to:

1. Deposition of Defendant's employee Angela Lombardo (scheduled for 12/17/2021);
2. Re-deposition of Defendant's former employee Eric Arcila;
3. Initial Expert Disclosures and Rebuttal Expert Disclosures; and
4. Depositions of treating physicians and expert witnesses.

III. REASONS WARRANTING EXTENSION OF DISCOVERY DEADLINES & DEMONSTRATION OF EXCUSABLE NEGLIGENCE

Plaintiff was scheduled to depose former 99 Cents Store employee Erik Arcila on December 3, 2021. Mr. Arcila had been subpoenaed to appear for deposition, and the witness thereafter confirmed his intent to appear. Plaintiff anticipates Mr. Arcila's testimony will be material to his liability argument, as Mr. Arcila – based on store incident records – was the first employee notified of the spilled liquid and the employee tasked with tending to the same.

In anticipation of Mr. Arcila's testimony, Plaintiff had retained an expert witness specializing in grocery and retail store operations and safety-related policies and procedures for such facilities. Plaintiff's intention was to complete Mr. Arcila's deposition and obtain a copy of the transcript on an expedited basis, which would then be provided to Plaintiff's expert witness to assist with the formulation of expert opinions. Unfortunately, due to Mr. Arcila's failure to appear for his deposition, this plan is no longer feasible. However, Mr. Arcila's deposition is currently



being rescheduled, and the parties expect this deposition to be completed in January. The parties respectfully submit such circumstances satisfy the requisite showing of excusable neglect, under LR 26-4. This is the parties' second request for an extension.

IV. DISCOVERY DEADLINES

A. Current Discovery Deadlines:

- Discovery Cutoff: 02/18/2022
- Last day to amend pleadings or add parties: closed
- Last day to disclose initial experts: 12/20/2021
- Last day to disclose rebuttal expert witnesses: 01/19/2022
- Last day to file dispositive motions: 3/21/2022

B. Proposed Extended Discovery Deadlines:

- Discovery Cutoff: 04/19/2022
- Last day to disclose initial experts: 02/18/2022
- Last day to disclose rebuttal expert witnesses: 03/20/2022
- Last day to file dispositive motions: 05/19/2022
- Joint Pretrial Order 6-21-2022

DATED this 8th day of December, 2021.

LADAH LAW FIRM

/s/ Joseph C. Chu, Esq.

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DATED this 8th day of December, 2021.

BRANDON|SMERBER LAW FIRM

/s/ Andrew Guzik, Esq.

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The failure of an opposing party to file points and authorities in response to any motion, except a motion under Fed. R. Civ. P. 56 or a motion for attorney's fees, constitutes a consent to the granting of the motion.

IT IS SO ORDERED.

December 10, 2021.


UNITED STATES MAGISTRATE JUDGE